

**EXPLANATORY MEMORANDUM TO  
THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT)  
REGULATIONS 2011.**

**2011 No.427**

**1** This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2 Purpose of the Instrument**

2.1. These Regulations define the conditions under which goods vehicles in categories N1 Class 1, N2 and N3 may be regarded as end of series vehicles and consequently be entitled to an exemption from compliance with new emissions standards for 12 months after those standards are introduced

2.2. For category N1 class 1 vehicles the relevant date from which new emissions standards took effect was 1 January 2011, and for classes N2 and N3 vehicles the relevant date is 31 December 2013.

**3 Matters of special interest to the Joint Committee on Statutory Instruments**

3.1. None

**4 Legislative Context**

4.1. The Road Vehicles (Construction and Use) Regulations 1986 (C&U), as amended, set out the construction and use requirements for vehicles in the UK. The Road Vehicles (Construction and Use) (Amendment) Regulations 2011 amend C&U by including a provision which allows manufacturers to continue to register and sell vehicles that are type-approved to a previous emissions standard for a specified period of time, providing those vehicles meet the criteria for end-of-series vehicles. This derogation is permitted under EC legislation (Article 27, and paragraph B in Annex XII, of Directive 2007/46/EC).

4.2. In the case of category N1 class 1 vehicles (car-derived vans) that have been type-approved to the Euro 4 emission standard, the derogation is from the Euro 5 standard that took effect on 1 January 2011. For categories N2 and N3 vehicles (heavy goods vehicles) that have been type-approved to the Euro V standard, the derogation is against the requirements of the Euro VI standard that will take effect after 31 December 2013.

4.3. The EC legislation provides Member States with two options for determining the number of goods vehicles which may benefit from such derogations. These Regulations take the second option which provides that

vehicles of any one type shall be restricted to those for which a valid certificate of conformity was issued on or after the date of manufacture and which remained valid for at least three months after its date of issue but subsequently lost its validity because of coming into force of a regulatory act.

4.4. The previous emissions requirements were covered by Directives, the contents of which had to be transposed. The vehicles to which derogations applied for earlier changes of emission standards are contained in Schedule 7XA to the 1986 regulations. Since standards are now contained in directly applicable EC Regulations, the contents of Schedule 7XA no longer apply, hence the need to amend the 1986 Regulation but not the Schedule.

## **5 Territorial Extent and Application**

5.1. This instrument applies to Great Britain.

## **6 European Convention on Human Rights**

6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7 Policy background**

7.1. For light duty vehicles (cars and light vans), Directive 70/220/EEC as last amended by Directive 2002/80/EC prescribed emission standards for vehicles at the level of Euro 4. This directive has been superseded by Regulation EC No 715/2007 that introduces the Euro 5 and Euro 6 emissions limits. Article 10 of Regulation EC No 715/2007 requires that new vehicles in N1 Class 1 shall comply with the Euro 5 emission limits from 1 January 2011. For heavier duty goods vehicles in categories N2 and N3, the relevant directives 2005/55/EC, 2005/78/EC, and 2006/51/EC will be superseded by Regulation EC No 595/2009 that requires that new vehicles shall comply with the emission limits of Euro VI after 31 December 2013.

7.2. Where a manufacturer has not placed on the market all vehicles complying with a previous emission standard (Euro 4 or Euro V) by the date from which the new limits (Euro 5 and Euro VI) apply, paragraph B of Annex XII of the framework Directive 2007/46/EC on vehicle type-approval permits Member States to apply “end of series” derogations to enable those vehicles to continue to be registered and to enter into service for up to 12 months from the date of implementation of a new standard. The purpose of this provision is to ease to the management of stock in the transition to new emissions standards.

7.3. These regulations give effect to this derogation for category N1 class I, N2 and N3 vehicles to prevent costs which vehicle manufacturers would incur if remaining stocks of Euro 4 and Euro V vehicles could not be registered for use. Fuller details are given in the attached Regulatory Impact Assessment.

7.4. Paragraph B of Annex XII of Directive 2007/46/EC offers two possibilities for end of series derogation in respect of category N (goods) vehicles:

7.4.1. the maximum number of vehicles of one or more types may not exceed 30 % of the vehicles of all types concerned put into service in that Member State during the previous year. Should 30 % be less than 100 vehicles, then the Member State may allow the putting into service of a maximum of 100 vehicles (the “30% rule”),

or

7.4.2. vehicles of any one type shall be restricted to those for which a valid certificate of conformity was issued on or after the date of manufacture and which remained valid for at least three months after its date of issue but subsequently lost its validity because of coming into force of a regulatory act (the “3-month rule”).

## **8 Consultation Outcome**

8.1. The motor industry was consulted, both individual companies and through their trade organisation, the Society of Motor Manufacturers and Traders (SMMT).

8.2. Whilst some manufacturers favoured the “30% rule” and some “3-month rule”, overall preference was shown for the “3-month rule”, and it is this that the Regulations implement.

## **9 Guidance**

9.1. The Regulations permit the manufacturers and importers of end of series vehicles to register and place on the market vehicles as if their certificates of conformity had not become invalid. Guidance is therefore not required and the department will not publish any.

## **10 Impact**

10.1. An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

10.2. There is no impact on the public sector.

## **11 Regulating Small Business**

11.1. The legislation does not apply to small business.

## **12 Monitoring and Review**

12.1. No monitoring or review are planned because the regulations will permit manufacturers and importers to register and place on the market vehicles as if their certificates of conformity were still valid.

### **13 Contact**

**Robert Falk** at the Department for Transport (tel: 020 7944 2077 or email: [robert.falk@dft.gsi.gov.uk](mailto:robert.falk@dft.gsi.gov.uk)) can answer any queries regarding the instrument.

## **TRANSPOSITION NOTE**

This Transposition Note is produced to accompany The Road Vehicles (Construction and Use) (Amendment) Regulations 2011 and shows how the Department has applied a derogation permitted under:

Article 27, and paragraph B of Annex XII, of the EC Whole Vehicle Type Approval Framework Directive 2007/46/EC.

For the purpose of this note:-

- “reference mass” has the meaning given in Article 3(3) of European Community Regulation 715/2007;
- “category N1 class I” means a motor vehicle with at least 4 wheels designed or constructed for the carriage of goods and having a reference mass not exceeding 1,305 kilograms as defined in Table 1 of Annex I of European Community Directive 715/2007;
- “category N2 and N3” have the meaning given in Annex II to European Community Directive 2007/46;
- “MAC” means a Minister’s approval certificate issued under section 58(1) of the 1988 Act;
- “TAC” means a type approval certificate.
- “2011 Regulations” means The Road Vehicles (Construction and Use) (Amendment) Regulations 2011.

These Regulations allow a derogation from the Euro 5 emission standards for a period of 12 months to end-of-series vehicles in category N1 Class 1 whose certificates of conformity are older than three months on 1 January 2011 when the Euro 5 emissions standards came into effect. The vehicles must therefore comply with the Euro 5 emission standards from 1st January 2012.

These derogations allow a derogation from Euro 6 emission standards for a period of 12 months to end of series vehicles in categories N2 and N3 whose certificates of conformity will be older than three months on 31 December 2013 when Euro VI emissions standards come into effect. The vehicles must therefore comply with the Euro 6 emission standards from 31 December 2014.

<b>Directive 2007/46/EC, Regulation 715/2007, and Regulation 595/2009</b>			
<b>Article</b>	<b>Objectives</b>	<b>Implementation</b>	<b>Responsibility</b>
Article 27 of European Community Directive 2007/46	Defines the scope for the registration, sale and entry into service of end-of-series vehicles	Regulation 61C (1) is inserted to specify the vehicles whose certificates of conformity have become invalid that shall comply with European Community Regulation 715/2007 from the 1 <sup>st</sup> anniversary of the relevant date, that is, to give a derogation for one year	The Secretary of State
Article 27 of European Community Directive 2007/46	Defines the scope for the registration, sale and entry into service of end-of-series vehicles	Regulation 61C (2) is inserted to specify the vehicles whose certificates of conformity have become invalid that shall comply with European Community Regulation 595/2009 from the 1 <sup>st</sup> anniversary of the relevant date, that is, to give a derogation for one year	The Secretary of State
Article 10 of European Community Regulation 715/2007	States the dates from which vehicles shall comply with the emissions standards given in Table 1 of Annex I of European Community Regulation 715/2007	Regulation 61C (3)(a) is inserted to state the relevant date from which a vehicle in category N1 class 1 shall comply with the emissions requirements of European Community Regulation 715/2007	The Secretary of State

<p>Article 8 of European Community Regulation 595/2009</p>	<p>States the dates from which vehicles shall comply with the emissions standards given in the Table of Annex I of European Community Regulation 595/2009</p>	<p>Regulation 61C (3)(b) is inserted to state the relevant date from which a vehicle in categories N2 and N3 shall comply with the emissions requirements of European Community Regulation 595/2009</p>	<p>The Secretary of State</p>
<p>Paragraph B of Annex XII to European Community Directive 2007/46</p>	<p>States the options available to Member States to offer a derogation to vehicles whose certificates of conformity are no longer valid</p>	<p>Regulation 61C (4) is inserted to state that a certificate of conformity issued at least three months before the relevant date will remain valid until the first anniversary of the relevant date</p>	<p>The Secretary of State</p>

<b>Title:</b> <b>The Road Vehicles (Construction and Use) (Amendment) Regulations 2011</b> <b>Lead department or agency:</b> <b>DfT</b> <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> DFT00059
	<b>Date:</b> 3/12/2010
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
	<b>Contact for enquiries:</b> Eur Ing Robert Falk 020 7944 2077 <a href="mailto:Robert.Falk@dft.gsi.gov.uk">Robert.Falk@dft.gsi.gov.uk</a>

## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

To control the impact of pollution from road transport on air quality, vehicles have to meet standards for pollutants emitted from their exhaust tailpipes. To reduce that impact, the limit values set in the standards have been reduced over time. The standards emanating from the EU are directly applicable in the UK but the Framework Directive 2007/46/EC permits Member States to offer a derogation for up to one year for vehicles whose certificates of conformity have expired. This exemption has to be transposed.

End of series vehicles are those left unsold whose certificates of conformity have expired due to the coming into force of a new standard, in this case, for exhaust emissions. This mechanism enables them to be sold.

### What are the policy objectives and the intended effects?

The policy objective is to minimise the cost to industry when new emissions standards are introduced should they not be able to sell vehicles to the outgoing standard before the date the new one takes effect. The vehicles may nevertheless be sold by a Regulation giving flexibility to industry permitting the sale of a limited number of vehicles after the date from which their certificates of conformity lost their validity due to the introduction of, in this case, new emissions standards.

### What policy options have been considered? Please justify preferred option (further details in Evidence Base)

Three options have been considered.

- 0. Do not implement a derogation.
- 1. Introduce a derogation for a quantity of vehicles up to 30% of the previous year's registrations or 100 units whichever is the greater.
- 2. Introduce a derogation, for vehicles with certificates 3 months old or older (industry's preferred option). This is the preferred option.

For Options 1 and 2, the Regulation may cover only vehicles in category 1 class 1 vehicles, or may include vehicles in categories N2 and N3.

<b>When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?</b>	It will not be reviewed
<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	No

**SELECT SIGNATORY Sign-off** For final proposal stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible Minister: Norman Baker

Date: 13th January 2011

# Summary: Analysis and Evidence

# Policy Option 1

Description: 30% rule

Price Base Year 2011	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: £1.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	0	0	0

### Description and scale of key monetised costs by 'main affected groups'

Proceeding with transposition will result in nil loss of income or cost to industry. There are no additional monitoring costs for government. No increase in emissions is forecast because the vehicles to which the derogation applies are expected to be placed on the market in any case.

### Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	1.0	Derogation for 12 months	1.0

### Description and scale of key monetised benefits by 'main affected groups'

Category N1 class 1 vehicles - the monetised benefit is obtained by preventing a loss of sale revenue of £3.6m by pre-registering or a cost of £1.0m by post-registering. Realistically, manufacturers would take the least-cost option.

No value can be placed yet on the cost to industry for category N2 and N3 vehicles.

### Other key non-monetised benefits by 'main affected groups'

There are no other non-monetised benefits, but identifying vehicles that should be included in a derogation may be more difficult than with Option 2. This is due to possibly having to switch to building vehicles to the new standard earlier than planned in case of a downturn in sales in the 12 months prior to the coming into force of the Regulation affecting on how many vehicles the 30% figure should be based.

### Key assumptions/sensitivities/risks

Discount rate (%)

N/A

The net present value of this policy is £1m. This consists solely of a £1m transitional benefit in the first year of the policy. There are no monetised costs associated with the implementation of this policy. The monetised benefits from the policy total £1m. This consists of a £547 saving per vehicle (£200 inspection fee plus a £347 transportation cost), which would be required to achieve Individual Vehicle Approval. An estimated 1,817 vehicles would be affected by the policy. There are no non-monetised costs, or benefits, associated with implementing this policy. The analysis assumes that the permitted derogation lasts for 12 months from the date of the change in regulation.

Impact on admin burden (AB) (£m):		Impact on policy cost savings (£m):		In scope
New AB: 0	AB savings: 0	Net: 0	Policy cost savings:	No

# Summary: Analysis and Evidence

# Policy Option 2

Description: 3 month rule (Preferred Option)

Price Base Year 2011	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: £1.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	0	0	0

### Description and scale of key monetised costs by 'main affected groups'

Proceeding with transposition will result in nil loss of income or cost to industry. There are no additional monitoring costs for government. No increase in emissions is forecast because the vehicles to which the derogation applies are expected to be placed on the market in any case.

### Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	1.0	Derogation for 12 months	1.0

### Description and scale of key monetised benefits by 'main affected groups'

Category N1 class 1 vehicles - the monetised benefit is obtained by preventing a loss of sale revenue of £3.6m by pre-registering or a cost of £1.0m by post-registering. Realistically, manufacturers would take the least-cost option.

No value can be placed yet on the cost to industry for category N2 and N3 vehicles.

### Other key non-monetised benefits by 'main affected groups'

There are no other non-monetised benefits, but identifying vehicles that should be included in a derogation categorised by a cut-off date for manufacture may be easier than in Option 1. This is the option preferred by most manufacturers and importers and aligns the derogation for vehicles built under National Type Approval (NTA) with those built under European Whole Vehicle Type Approval (WVTA).

### Key assumptions/sensitivities/risks

The permitted derogation lasts for 12 months from the date of the change in regulation.

Discount rate (%)

N/A

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB: 0	AB savings: 0	Net: 0	Policy cost savings:	No

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	01/01/2011 and 31/12/2013				
Which organisation(s) will enforce the policy?	VCA/DVLA				
What is the annual change in enforcement cost (£m)?	nil				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> n/a		<b>Non-traded:</b> n/a		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	<b>Costs:</b> nil		<b>Benefits:</b> nil		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	<b>Micro</b> 0	<b>&lt; 20</b> 0	<b>Small</b> 0	<b>Medium</b> 0	<b>Large</b> 0
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	11
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	11
<b>Environmental impacts</b>		
Greenhouse gas assessment	No	12
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	12
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	12
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	12
Justice system <a href="#">Justice Impact Test guidance</a>	No	12
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	12
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	12

<sup>1</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No	Legislation or publication
1	Directive 2007/46/EC
2	Regulation EC No 692/2008
3	Regulation EC No 595/2009
4	Road Vehicles (Construction and Use) Regulations, 1986, as amended

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>	1									
<b>Annual recurring</b>										
<b>Total annual benefits</b>	1									

\* For non-monetised benefits please see summary pages and main evidence base section

## Evidence Base (for summary sheets)

### 1 Background

#### 1.1. Vehicle emission standards

- 1.1.1. Mandatory air pollutant emission standards for new light goods vehicles up to 3.5 tonnes gross weight are defined in European Regulation EC No 715/2007 and its implementing measures, Regulation EC No 692/2008. For convenience, emissions standards are generally referred to as "Euro" standards and these European Regulations introduce the Euro 5 & 6 standards.
- 1.1.2. Light good vehicles (category "N1" in the Regulations) are subdivided into three weight classes, namely, classes 1, 2 and 3. class 1 refers to vehicles whose reference mass is 1305 kg or less, class 2 whose reference mass is between 1305 and 1760 kg, and class 3 for those over 1760 kg (see Annex XVII of Regulation EC No 692/2008). Reference mass is used in the emissions test at type approval but is not the same as maximum vehicle mass.
- 1.1.3. Category N2 covers vehicles whose maximum mass exceeds 3.5 tonnes but not 12 tonnes, and category N3 vehicles are those over 12 tonnes (see Annex II of Directive 2007/46). Engines for these vehicles are tested separately from the vehicles they are fitted to, so there is no reference to "reference mass".
- 1.1.4. The limit values of regulated pollutants in exhaust emissions standards have been gradually reduced over the last decade to reduce the impact of vehicle pollution on air quality, and from 1 January 2011 newly registered light goods vehicles in category N1 class I as defined in the Table 1 of Annex XVII to Regulation EC No 692/2008 have to meet the Euro 5 standard. In addition, from 31st December 2013, under Regulation EC No 595/2009, newly registered category N2 medium duty and N3 heavy duty goods vehicles have to meet the Euro VI standard in that Regulation.
- 1.1.5. Ahead of a change in the standard, the motor industry starts to manufacture vehicles to the new one. However, because they do not manufacture vehicles to order, some vehicles built to the outgoing standard will be left unsold when the new standard takes effect. These are the "end of series" vehicles held in stock that do not meet the new standard. These vehicles lose the validity of their "certificates of conformity" from the date the new standards take effect, and therefore would not be able to be registered and placed on the market using the normal registration process. EC legislation permits Member States to implement a derogation to enable manufacturers to sell these vehicles even though they do not meet a new emissions standard.
- 1.1.6. Offering an end-of-series derogation will enable manufacturers to liquidate their remaining stock, thus saving them the loss of value by registering them before the relevant date or adding cost by submitting the remaining stock to Individual Vehicle Approval (IVA) after the new standard takes effect.

#### 1.2. "End of series" rules

- 1.2.1. Tying precisely output to sales or vice versa to ensure nil stock of vehicles built to a standard on the date that standard is superseded is rarely possible.
- 1.2.2. To facilitate the transition to more stringent requirements, the European Type Approval Framework Directive (2007/46/EC) allows Member States to permit "the registration and entry into service of a limited number of vehicles as end of series production". These are vehicles that are already in an EEA State and whose certificate of conformity is no longer valid due to the entry into force of a more stringent type-approval requirement.
- 1.2.3. End of series derogations are already in place in UK legislation for passenger vehicles and larger (category N1 class 2 and 3) light goods vehicles. Provisions need to be made for the few remaining category N1 class 1 vehicles that are type-approved to Euro 4 emission

standard to enable them to be registered on or after 1 January 2011 when the Euro 5 emission standard supersedes the Euro 4, or when this Regulation comes into force.

- 1.2.4. Provisions also need to be made for category N2 and N3 vehicles that have been type-approved to the heavy duty vehicle Euro V emission standard described in Directive 2005/55/EC as amended, where the applicable date is 31 December 2013 when the Euro VI standard becomes mandatory.
- 1.2.5. The reason for preparing a derogation for vehicles in categories N2 and N3 in the same regulation as the derogation for category N1 class 1 vehicles is to eliminate the cost and effort in preparing a second regulation for which the rationale, modus operandi, and text with the exception of the vehicles to which the derogation would apply, are the same.
- 1.2.6. Under the paragraph B of Annex XII of Directive 2007/46/EC, Member States must restrict the number of vehicles entering into service under this procedure by ensuring that either;
  - 1) the maximum number of vehicles of one or more types may, in the case of category M1, not exceed 10 % and in the case of all other categories not exceed 30 % of the vehicles of all types concerned put into service in that Member State during the previous year. Should 10 %, respectively 30 %, be less than 100 vehicles, then the Member State may allow the putting into service of a maximum of 100 vehicles (the "30% rule"),or
  - 2) vehicles of any one type shall be restricted to those for which a valid certificate of conformity was issued on or after the date of manufacture and which remained valid for at least three months after its date of issue, but subsequently lost its validity because of coming into force of a regulatory act (the "3 month rule").
- 1.2.7. Member States may not use both options.

## **2 Rationale for Government Intervention**

- 2.1. Manufacturers may not place vehicles on the market that are not type-approved. Type approval lapses and the certificates of conformity lose their validity when a new regulatory standard, for example, for exhaust emissions, takes effect. Such changes in the regulatory standards for exhaust emissions take place periodically to reduce the impact of pollution from road transport on air quality.
- 2.2. On the date that a new standard takes effect, inevitably, a few vehicles built to the outgoing one are left unsold. To place them on the market manufacturers would either have to have registered those vehicles before the standard changed, thus rendering them 2<sup>nd</sup> hand and subject to loss in value when they are eventually sold, or register them on sale after the standard changed using the IVA route that incurs an administrative cost.
- 2.3. The aim is to reduce the financial burden on vehicle manufacturers that might occur should they otherwise be unable to sell their remaining Euro 4 class 1 light goods vehicles after 1 January 2011 or their heavier Euro V vehicles after 31 December 2013.
- 2.4. Vehicles that are type approved under National Type Approval (NTA) will require the preparation of draft regulations under existing UK legislation. Vehicles that are type approved under European Whole Vehicle Type Approval (WVTA) already have a derogation using the 3-month rule which is provided in the Motor Vehicle (Approval) Regulations 2009.
- 2.5. In the case of light vans (category N1 class 1), some manufacturers have indicated to the Department that they had planned their production assuming the 30% rule would apply at the transition to Euro 5 whilst others had anticipated that the 3 month rule would apply.

- 2.6. The same question has been put to the manufacturers of the heavier category N2 and N3 vehicles where the numbers sold are very much lower.
- 2.7. All the manufacturers or importers bar one favoured the “3-month” rule over the “30%” rule. This would bring a derogation for category N1 Class 1 vehicles in line with that given under European WVTA.
- 2.8. Under the 3 month rule, the outgoing model is manufactured up to 3 months before the date the new standard takes effect, and vehicles to the new standard manufactured thereafter. The advantage is that the manufacturer knows three months ahead of a change in regulations precisely which vehicles were manufactured and does not have the worry that sales volume in the preceding 12 months will support 30% of that number to be placed on the market after the new standard takes effect.
- 2.9. The opposite view is that under the 30% rule the manufacturer can produce vehicles to the old standard up to the day before a new standard takes effect. The disadvantages are that if there is a slump in sales due to reduced national economic activity in the year before the change, the manufacturer may have more vehicles available than the 30% allows for, and accurate registration data are required to calculate the 30%.
- 2.10. To limit any financial consequences for industry, Government has prepared draft regulations using a single formula for an end of series derogation which is acceptable to industry as a whole. Directive 2007/46/EC offers the options listed in paragraph 1.2.6 only as alternatives. To offer both routes is not permitted. Government has chosen the 3-month rule because this was favoured by the majority of manufacturers and importers, and it also matches the derogation given to vehicles approved to European WVTA.

### **3 Simplification Measures & Administrative Burdens**

- 3.1. The measure affords industry the opportunity to register a small number of unsold vehicles of an emission standard that has been superseded
- 3.2. The measure will not impose any administrative burdens on industry or Government
- 3.3. The measure does not make the vehicle registration process any more complicated than for vehicles that do comply with an emission standard that is current at the time of registration. In this regard it may be considered as a simplification method.
- 3.4. Including vehicles in categories N2 and N3 in the same regulation as the category N1 class 1 vehicles will eliminate duplicating a regulation and its associated cost and effort. In this regard it may be considered as a simplification method that reduces the administrative burden.

### **4 Consultation**

- 4.1. In view of the impending entry into force of the new emissions standards the Department conducted an informal consultation with motor manufacturers and the trade organisation representing them, SMMT (Society of Motor Manufacturers and Traders), because end of series provisions for vehicles affects only them and the importers. There are no financial implications for the wider public.
- 4.2. As indicated above, the options for a derogation are either the 30% rule or the 3-month rule. The relevant dates are 1 January 2011 for vehicles in category N1 class 1, and 31 December 2013 for vehicles in categories N2 and N3.
- 4.3. Industry mostly preferred the three-month rule, but could accept the 30% rule. Only one importer preferred the 30% rule.
- 4.4. Were industry denied a derogation, they would have to pre-register the Euro 4 or Euro V end of series vehicles before the relevant dates and sell them as second hand vehicles or,

alternatively, seek approval for each vehicle using the IVA system after that date. In the first option the manufacturer suffers a loss, and in the second a cost. Because the vehicles would be placed on the market with or without a derogation, there is no change in emissions.

- 4.5. The total number of light vans in category N1 class 1 affected is approximately 1800, type-approved under NTA.

## **5 Options**

- 5.1 Option 0: Do nothing, do not introduce an end of series derogation for vehicle categories N1 class 1, nor for Categories N2 and N3 vehicles.
- 5.2 Option 1: Introduce a derogation for a quantity of vehicles up to 30% of the previous 12 month's registrations or 100 units whichever is the greater.
- 5.3 Option 2. Introduce a derogation for vehicles with certificates of conformity that are 3 months old or older.
- 5.4 Within Options 1 and 2 above, further options should be considered whether or not to include in the same Regulation a derogation for vehicles in categories N2 and N3. The text of a derogation, whether for category N1 class 1 vehicles, or categories N2 and N3 vehicles is essentially the same. By including vehicles in categories N2 and N3 in this Regulation the administrative burden on Government and its associated cost are reduced because only one Regulation would be required. This is the favoured route.
- 5.5 Manufacturers who have planned to continue to manufacture vehicles to the current standard up to just before the new standard takes effect prefer the 30% rule. However, the numbers of vehicles that could be derogated might not be sufficient for those manufacturers those whose sales may have collapsed as a result of the economic downturn and the number of vehicles left unsold is greater than 30% of the previous year's registrations.
- 5.6 The 3-month rule is favoured by industry with the majority of manufacturers and importers of light duty vehicles in category N1 class 1. Only one importer preferred this 30% route, but has confirmed that were the 3-month rule to be confirmed, they could cope. As reported by SMMT, all of the manufacturers and importers of the heavier vehicles in categories N2 and N3 preferring a "3 month rule" formulation of the derogation.

## **6 Costs and Benefits**

### **6.1. Sectors and Groups Affected**

- 6.1.1. The proposed Regulation will affect manufacturers of light goods vehicles in category N1 class 1 and medium goods vehicles in category N2 and heavy goods vehicles in category N3. There are five manufacturers of light duty vehicles in the UK plus one manufacturer of heavy duty vehicles. However, a wide range of manufacturers import goods vehicles into the UK in all three categories of vehicles.

### **6.2. Costs & Benefits**

#### **6.1.2. Economic**

- 6.2.1.1. Option 0 - Do nothing. This is the baseline option against which costs and benefits are assessed. By definition it has no costs or benefits to Government, but does lead to financial penalty for manufacturers.
- 6.2.1.2. Option 1, 2 - Introduce a derogation. There is no cost or benefit to Government. However, a derogation would reduce unnecessary costs to industry, whether absorbed by them or passed on to their customers. The number of category N1 class 1 vehicles that the manufacturers have indicated may be in stock on the 1st January 2011 is 1,817

units. These are the “end of series” vehicles. Industry has indicated that pre-registering vehicles would incur a loss of 20% of their list price. Assuming that these vehicles have an average list price of £10,000 each, pre-registering them will incur a loss of £3.6m. However, this loss in value would not be a resource cost to the economy, as those who purchase the vehicles would gain from the reduction in price. Manufacturers have a more profitable alternative to register them after the new emissions standards take effect by obtaining IVA at a cost of approximately £547 per vehicle (£200 inspection fee, plus £347 cost of taking a vehicle for inspection according to manufacturers’ estimates). This would incur industry a cost of just under £1.0m.

- 6.2.1.3. In the absence of a derogation we would expect industry to take the least-cost option incurring a cost of £1.0m. Hence, introducing an end of series derogation would avoid these costs thus delivering a financial benefit to manufacturers and ultimately consumers of, realistically, £1.0 million in the 2011 calendar year.
- 6.2.1.4. Similar costs for category N2 and N3 vehicles cannot be estimated because the derogation would only apply from 31 December 2013, and the number of relevant vehicles likely to be remaining in stock at that date is not yet known. The possibility of manufacturers predicting sales volumes accurately enough to plan production to ensure nil stock of Euro V vehicles when Euro VI takes effect is slim. Manufacturers might produce vehicles to Euro VI standard sufficiently ahead of time to try to liquidate stock of Euro V. However, that still does not guarantee nil stock on the relevant date since in the event of a downturn in sales a number of vehicles might remain in stock where, otherwise, they would have been sold.
- 6.2.1.5. Introducing a derogation does not impose any costs.
- 6.2.1.6. Including the derogation for vehicles in categories N2 and N3 in the same Regulation for category N1 class 1 vehicles will reduce the administrative cost on Government by removing duplication of effort.
- 6.2.1.7. The reason for including in this derogation for categories N2 and N3 vehicles is to reduce the administrative cost to lay these regulations before Parliament. Not doing so would duplicate the effort and cost in preparing a second regulation that is a copy of the first with the exception of the vehicles to which it would apply.

#### 6.2.1. *Environmental*

- 6.2.2.1. In the absence of a derogation, those vehicles remaining in stock at the introduction of new emissions standards would not be scrapped. They would either be registered before the introductory date of the standard for sale later, or approved for registration at a later date under the IVA scheme. IVA emissions requirements are based on the date of manufacture of the vehicle, rather than its date of registration as is the case under EU type approval requirements. In either case the vehicles would still enter into service after the introduction of the new emissions stage. Consequently making a derogation available has no impact on emissions from vehicles.
- 6.2.2.2. This argument is equally valid for category N1 class 1 vehicles as it is for categories N2 and N3. In the case of the last two categories producing vehicles to exactly match demand to ensure nil stock on the date that Euro VI takes effect is virtually impossible. Irrespective of whether or not a derogation is given, these vehicles will be placed on the market, it is only a matter of whether manufacturers suffer a loss in value by pre-registering or incur a cost by registering them by IVA, a charge they will pass on to their consumers. An environmental benefit could only be obtained if these vehicles were not permitted to be registered and would have to be scrapped. This will not happen.

#### 6.2.2. *Social*

- 6.2.3.1. There would be no social cost or benefits in offering the derogation.

## **7 Small Firms Impact Test**

- 7.1. Production of light goods vehicles is predominantly carried out by large multinational firms, as is the production of the category N2 and N3 vehicles. Certain vehicles produced by smaller independent manufacturers such as ambulances and motor-homes - which also fall within the scope of the emissions directive - are not subject to the type approval regulations. They should not therefore be affected by these regulations that only cover light goods vehicles in category N1 class 1, and heavier goods vehicles in categories N2 and N3.

## **8 Competition Assessment**

- 8.1. The sector affected by the regulations is the UK goods vehicle market. Not permitting the derogation would impose costs on industry that would vary across manufacturers according to the number of vehicles they had unsold in stock at the time the change in emission standard takes effect. Permitting the derogation is not expected to have any adverse impact on competition despite this market being dominated by a small number of large manufacturers.

## **9 Enforcement, Sanctions and Monitoring**

- 9.1. Administration of the end of series arrangements is carried out by the Vehicle Certification Agency. Enforcement of the arrangements is through the type approval process and via registration checks of vehicle "certificates of conformity" by the Driver and Vehicle Licensing Agency (DVLA). The proposed Regulation would not necessitate any changes to these procedures but use of the 3 month rule should make identification of qualifying vehicles easier than previous derogations using the 30% rule because the date of last manufacture is most likely easier to determine than determining whether a vehicle is or is not part of the 30% of a previous year's sales.

## **10 Greenhouse Gas Impacts**

- 10.1. The proposal does not have any impact on greenhouse gas emissions in either the traded or non-traded sector.

## **11 Wider Environmental Issues**

- 11.1. There will be no change in air quality whether or not these vehicles are granted a derogation. Therefore a full health impact assessment is not required.

## **12 Health Impact Screening Test**

- 12.1. There will be no change in air quality whether or not these vehicles are granted a derogation. Therefore a full health impact assessment is not required.

## **13 Human Rights**

- 13.1. The proposal does not engage or impose any restriction on the 16 basic human rights in the Human Rights Act 2000.

## **14 Justice Impact Test**

- 14.1. Manufacturers are not subject to penalty whether a derogation is given or not. No impacts on the justice system are anticipated, and thus the Ministry of Justice were not consulted.

## **15 Rural Proofing**

- 15.1. The proposed derogation is not expected to have any disproportionate impact upon rural communities.

## 16 Sustainable Development Impact test

16.1. There are no implications for sustainable development.

## 17 Summary costs and benefits table

<b>Total benefit per annum: economic, environmental, social</b>	<b>Total cost per annum: - economic, environmental, social - policy and administrative</b>
Implementing a derogation will avoid costs to industry ranging from £1.0m to £3.6m, but realistically £1.0m. There are not expected to be any significant environmental or social benefits	There are not anticipated to be any costs

## 18 Summary and recommendation

18.1. The recommended option is Option 2; implement a “3-month rule” derogation. This route is estimated to deliver a one-off transitional benefit of £1.0 - 3.6 million to industry, with no economic, environmental or social costs. In the event of no derogation, we would expect industry to choose the lowest cost alternative, namely, registering vehicles after the new standard came into force via the IVA route at a cost of £1.0m.

**Annexes**

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

**Annex 1: Post Implementation Review (PIR) Plan**

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; No review is planned. The regulations introduce one-off transitional flexibility for industry. There would be no value in reviewing this flexibility after the period for which it is permitted, under EU law, to apply.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p>
<p><b>Reasons for not planning a PIR:</b> [If there is no plan to do a PIR please provide reasons here] The derogation lasts for 12 months from the change in type approval requirements, namely, the relevant dates when the new exhaust emission requirements take effect. Vehicles whose certificates of conformance are three months or older on those relevant dates will be permitted to be registered as if their certificates were valid.</p>